

**Municipal Separate Storm Sewer System (MS4)
Frequently-Asked-Questions (FAQ)
July 18, 2008**

These NPDES Application FAQ's are intended to provide information to permittees regarding the recently-reissued MS4 Watershed and Jurisdictional permits. This document will be updated to add information, and is considered a work in progress. Implementation FAQ's will be added to the document in the near future. If you have questions that are not addressed in this document, please contact Mark Fife at fifem@michigan.gov with your question.

1. Q: Why do we need to submit another Application if we submitted the short-form Application?

A: The short-form Application provided the Department of Environmental Quality (DEQ) with the administrative ability to allow permittees continued discharge authorizations until the Watershed and Jurisdictional General Permits were reissued and complete Applications could be requested. The short-form Application does not contain all of the information needed to process coverage under either general permit.

2. Q: What is the timeframe for requesting Applications and issuing the appropriate Certificate of Coverage under the reissued general permits?

A: The Watershed and Jurisdictional General Permits were issued on May 22, 2008. A letter requesting the submittal of a complete Application was sent to permittees on May 28, 2008, after the revised Applications were placed on the DEQ Web site. The letter established an Application due date of August 1, 2008.

The DEQ, Water Bureau (WB), Permits Section, intends to review and start processing Applications as they are received, provided the Applications are complete and the WB can confirm that enough partners exist in the watersheds to meet the established criteria for coverage under the Watershed Permit.

A tentative schedule for processing Applications has been established:

May 22, 2008 – The Watershed and Jurisdictional Permits were issued.

May 24, 2008 – The Permits and Responsiveness Summary were placed on the Web site.

May 28, 2008 – The Application letters were mailed. Applications are available on the Web site, and the Application due date was established as August 1, 2008. The FAQ document was placed on the Web site.

June 19, 2008 – WB staff attend a meeting hosted by the Southeast Michigan Council of Governments to discuss the reissued permits and Application requirements.

August 1, 2008 – Applications are due by this date.

Applications are anticipated to be processed for reissuance from about June 1, 2008, until November 30, 2008.

3. Q: Is there a fee for the Application?

A: No.

4. Q: Where can we obtain copies of the reissued general permits?

A: *The reissued permits are available on the DEQ Web site. Both documents may be downloaded from the Internet at www.michigan.gov/degstormwater. In the middle column, click on **Municipal Program/MS4 Permit Guidance**, and then under the appropriate heading (**Watershed-Based MS4** or **Jurisdictional-Based MS4**) click on the desired general permit.*

5. Q: What will be included in the Certificate of Coverage (COC)?

A: *For the **Watershed Permit**, the following information is included:*

- *The watershed boundaries that are to be covered by a Watershed Management Plan (WMP), referred to as “regulated watersheds”*
- *Receiving waters to which the permittee discharges*
- *Approved Total Maximum Daily Loads (TMDLs) applicable to the receiving waters and storm water discharges*
- *The submittal date for the process or revised/updated process to facilitate the involvement of the watershed jurisdictions and the public [i.e., the Public Participation Process (PPP)] in the development and implementation of a WMP or revised/updated WMP*
- *The submittal date for the WMP or revised/updated WMP*
- *The submittal date for the Storm Water Pollution Prevention Initiative (SWPPI), which includes the Illicit Discharge Elimination Plan (IDEP), the Public Education Plan (PEP), and an implementation schedule or revisions/updates of the SWPPI and implementation schedule*
- *Any nested jurisdictions for which the permittee is assuming responsibility for permit requirements*
- *Any deferred areas for a portion of a permittee’s urbanized area*
- *The submittal date for joint reporting requirements and progress reports*
- *Discharge Point Location schedule*
- *Date for System Map (if different than first progress report)*
- *Dates for Post-Construction Controls (if needed)*

For the **Jurisdictional Permit**, the following will be included in the COC:

- Submittal dates for the Storm Water Management Program (SWMP) plan or plan revisions
- Receiving waters to which the permittee discharges
- Implementation date for the SWMP plan or plan revisions, if other than implementation upon submittal. Individual parts of the plan may be authorized for implementation on different dates
- Approved TMDLs and the pollutants applicable to the receiving waters and storm water discharges
- Any nested jurisdictions for which the permittee is assuming responsibility for permit requirements
- Submittal dates for the Progress Reports
- Discharge Point Location schedule
- Date for System Map
- Dates for Post-Construction Controls

6. Q: What is required to change from a Jurisdictional to Watershed or vice versa?

A: A permittee switching from the Watershed General Permit to the Jurisdictional General Permit shall submit a complete Application for the Jurisdictional General Permit. A complete SWMP that conforms to the requirements of the permit shall be submitted with the Application or in accordance with an alternate schedule set by the DEQ.

A permittee switching from the Jurisdictional General Permit to the Watershed General Permit shall submit a complete Application for the Watershed General Permit. In order to assure a good working relationship with the watershed stakeholders represented under that permit, the DEQ recommends that, prior to the Application's submittal, the applicant should attend one or more meetings of the watershed group, or at a minimum contact the leader of the watershed group.

7. Q: If my city, village, or township has been determined to be a complex and I am applying for coverage under the MS4 Watershed General Permit, in what areas will I need to implement the program?

A: Public Education and Post-Construction requirements (Parts I.A.4.b.2 and 4 of the permit, respectively) need to be implemented everywhere within the watershed boundary. At a minimum, each permittee will work within the watershed boundaries in its jurisdiction.

The remaining permit requirements also need to be implemented across the watershed where the permittee owns or operates an MS4. For example, a township that operates MS4s within the watershed at a township hall complex and at a separate fire station must identify its discharge points and do other permit requirements at each of these properties, even if the city hall complex is within the urbanized area and the fire station is outside the urbanized area. As

long as the permittee's MS4s are within the regulated watershed, all permit requirements apply to them.

Nested jurisdictions covered by the city, village, or township should be treated as if they are MS4s owned or operated by the permittee.

- 8. Q: If my city, village, or township has been determined to be a complex and I have coverage under the MS4 Jurisdictional General Permit, in what areas will I need to implement the program?**

A: *Under the Jurisdictional Permit, the permittee must implement all permit requirements for the MS4s it owns and operates within its urbanized area. For municipalities that own or operate roads with drainage, these are included as part of their MS4.*

Public education actions must focus on municipal properties and the employees and contractors that work there, but shall also include education of the general public that use municipal properties such as parks, ball fields, libraries, and roads, if applicable. Post-construction controls are required for the new developments and redevelopments that discharge to the permittee's MS4.

As with the Watershed Permittees, nested jurisdictions covered by the city, village, or township should be treated as if they are MS4s owned or operated by the permittee.

- 9. Q: What do the general permits require for development of storm water runoff quality and quantity controls for newly-developed or redeveloped properties?**

A: *The applicant shall select one or more of the following options for meeting the post-construction storm water control requirements:*

- *The applicant will implement the specific post-construction control criteria contained in Part I.A.4.b.4.a (minimum treatment volume standard) and Part I.A.4.b.4.b. (channel protection criteria) of the permit. The applicant shall submit with the Application a fixed date schedule to develop and place in effect the locally enforceable regulatory mechanism or the Application will be considered incomplete.*
- *The applicant shall submit a copy of an ordinance or a locally enforceable regulatory mechanism in effect at the time of the Application under which the authority exists to regulate treatment for water quality and criteria for channel protection. This document does not have to be identical to the permit requirement. The document shall be attached to the Application or the Application will be considered incomplete*
- *The applicant has a procedure in place to regulate treatment for water quality and criteria for channel protection which has not been codified as a regulatory mechanism. A copy of the procedure and a fixed date*

schedule for finalizing a locally enforceable ordinance or regulatory mechanism shall be attached to the Application.

- *The applicant intends to request approval of an alternate approach for the post-construction control requirements in the permit. The proposal for the alternate approach shall be submitted with the Application.*
- *(For Watershed Permittees only) The Watershed Permit applicant intends to develop a locally enforceable ordinance or regulatory mechanism which meets the elective option criteria in Part I.A.4.b.4. of the permit. A fixed date schedule for developing and finalizing the regulatory mechanism shall be submitted with the Application.*

Applicants may use more than one of these options to satisfy these requirements.

- 10. Q: Will municipalities be required to prepare annual reports required under old permit, if they've applied and are waiting for the COC to be issued?**

A: *Until your new COC has been issued, you are still responsible to implement existing COC requirements.*

- 11. Q: Does a grandfathered regulatory mechanism or procedure have to achieve the same level of control as the standards in the permit?**

A: *No, but it needs to provide both storm water treatment for water quality and criteria for channel protection for developed or redeveloped properties. If only one of the controls is satisfied, then the applicant needs to indicate how the other control will be met.*

- 12. Q: If we're in the process of writing an ordinance to control water quality and peak flow rate, can it be grandfathered?**

A: *Yes, but only if it is in effect at the time of the Application submittal date or is based on a procedure that is being implemented at the time of Application submittal.*

- 13. Q: If our local unit of government doesn't have a written procedure, but it approves site plans based on the rules of the drain commissioner, what should we submit?**

A: *An explanation of the local process and a copy of the drain commissioner's regulatory method you follow shall be submitted with the Application. In addition, a time schedule to adopt an ordinance or regulatory mechanism shall also be submitted with the Application.*

14. **Q: Do the design standards for post-construction controls need to actually be in an ordinance or can they be incorporated by reference?**
- A:** *Standards for post construction control can be incorporated into an ordinance by reference.*
15. **Q: How does a municipality determine if post-construction control ordinances developed during the “voluntary” watershed permit period are adequate to meet the current post-construction control requirements?**
- A:** *At a minimum, the ordinance or other regulatory mechanisms must deal with water quality treatment and channel protection. Existing ordinances or other regulatory mechanisms shall be submitted with the Application. Upon receipt of the Application, the Water Bureau will review the documents for appropriateness.*
16. **Q: How do the Post-Construction Control requirements apply to regulated Road Commissions?**
- A:** *All permittees are required to have an ordinance or other regulatory mechanism in place for post-construction controls greater than or equal to one acre. Post-construction controls would apply to any discharges to road commission MS4s, as well as any new construction performed by the road commissions on their MS4s.*
17. **Q: If the township adopts the county specifications and standards (S&S) by ordinance, or other regulatory mechanisms, will this meet the Post-Construction Control Requirements?**
- A:** *Yes.*
18. **Q: A city’s storm water ordinance requires the adherence to the County Drain Commissioner’s S&S also. Is this OK?**
- A:** *Yes.*
19. **Q: Does a township complex, such as a township hall/library/fire station, count as an unknown category for reporting discharge points?**
- A:** *No, In general, this would be a very limited amount of discharge points and this information should already be known. If not, it should be obtained by the Application deadline. If there are extenuating circumstances, these can be explained in the Application and an appropriate schedule developed to allow this information to be gathered.*

20. Q: Can a County Road Commission and a Drain Commission apply for a single permit?

A: *Yes. This approach is currently being utilized in various counties across the state. Under this approach, discharge points from the Road Commission's MS4 to the Drain Commissioner's MS4 do not need to be identified.*

21. Q: Would the Water Bureau consider expanding the list of waterways exempt from post-construction control channel protection criteria?

A: *Yes. If you have a situation where post-construction controls are not necessary, submit this request with the Application.*

22. Q: Do both general permits allow a municipality to develop only one SWPPP to cover multiple maintenance/storage facilities?

A: *Yes as long as the SWPPP contains appropriate information for each maintenance / fleet storage area.*

23. Q: Do municipalities need to identify discharge points from the nested jurisdiction to the municipal system?

A: *Municipalities do not need to identify discharge points from the nested jurisdiction to their own MS4.*

24. Q: Does the Jurisdictional Application require latitudes/longitudes?

A: *Only for new outfalls identified.*

25. Q: What are examples of "categories"?

A: *Categories are expected to include, but may not be limited to: paved and unpaved roads with curb and gutter or roadside ditches; open or enclosed ditches, conduits, man-made channels; and/or municipally-owned parking lots or property.*

26. Q: Who determines the time schedule for identifying unknown discharge points?

A: *The District and Permit Section staffs will discuss the appropriate timeframes with the applicants and develop appropriate schedules.*

27. **Q: How do I handle the reporting of discharge points from City A's MS4 to a county drain, which is an MS4, which then discharges to City B's MS4?**

A: *The discharge points into the county drain would have to be identified by City A, and the discharge point to City B would have to be identified by the county.*

28. **Q: Who is the storm water program manager?**

A: *The storm water program manager is responsible for overseeing compliance and implementation of the permit requirements. In addition, the storm water program manager is the main contact for the DEQ.*

29. **Q: How do I submit information for "new" outfalls just identified?**

A: *Information should be submitted to the DEQ as soon as identified. The best approach is to submit this electronically to the Permits Section Chief.*

30. **Q: Are wetlands surface waters of the state? Do I need to identify discharge points to wetlands?**

A: *Yes, wetlands are defined as surface waters of the state by the Part 4, Part 8, and Part 22 Rules.*

31. **Q: Can a county drain be a surface water of the state?**

A: *Yes. The term "county drain" is not defined by Part 31 or its rules. Some designated county drains are Waters of the State and some are not. For instance, Three Mile Creek that runs through Durand, Michigan is a perennial stream and a designated county drain. There are also county drains that are nothing more than a concrete storm sewer pipe buried in the ground. As an FYI, the definition of drain from the Drain Code is given below to show the broad use of the term:*

THE DRAIN CODE OF 1956
Act 40 of 1956
280.3 Drain; definition.

The word "drain," whenever used in this act, shall include the main stream or trunk and all tributaries or branches of any creek or river, any watercourse or ditch, either open or closed, any covered drain, any sanitary or any combined sanitary and storm sewer or storm sewer or conduit composed of tile, brick, concrete, or other material, any structures or mechanical devices, that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains and any levee, dike, barrier, or a combination of any or all of same constructed, or proposed to be constructed, for the purpose of drainage or for the purification of the flow of such drains, but shall

not include any dam and flowage rights used in connection therewith which is used for the generation of power by a public utility subject to regulation by the public service commission.

32. Q: Can an MS4 be a surface water of the state?

A: Yes. In order to answer the question of whether an MS4 can be a water of the state (WOS), we need to review the definition of MS4 and separate storm sewers.

Part 31, 324.3118

(h) "Municipal separate storm sewer system" means all separate storm sewers that are owned or operated by the United States or a state, city, village, township, county, district, association, or other public body created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law, such as a sewer district, flood control district, or drainage district or similar entity, or a designated or approved management agency under section 208 of the clean water act, 33 U.S.C. 1288, that discharges to waters of the state. Municipal separate storm sewer system includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. Municipal separate storm sewer system does not include separate storm sewers in very discrete areas, such as individual buildings.

(l) "Separate storm sewer system" means a system of drainage, including, but not limited to, roads, catch basins, curbs, gutters, parking lots, ditches, conduits, pumping devices, or man-made channels, which has the following characteristics:

- (i) The system is not a combined sewer where storm water mixes with sanitary wastes.*
- (ii) The system is not part of a publicly owned treatment works.*

The question is better expressed as whether separate storm sewers (S3) can be a WOS. The definition of S3 includes a system of drainage and can include man-made channels. The definition does not say the S3 conveys storm water or only storm water. There are many examples of a WOS that are conveyed through man-made channels (for instance, many designated country drains are man-made channels and some of these county drains are perennial rivers). These situations are not excluded by the definition of S3, so therefore MS4s can be a WOS, and visa/versa. Note that this is a change from an earlier interpretation made by the Surface Water Quality Division.

Clearly not all WOS are MS4s and not all MS4s are WOS. There are gray areas where both definitions may be met.

33. Q: Can a county drain be an MS4?

A: Yes

34. Q: Do I need to report the receiving waters for a discharge point that goes to another MS4 and then discharges to a surface water?

A: Yes. You must identify the receiving water to which the storm water will ultimately discharge.

35. Q: What if I do not know what the receiving water is?

A: Check with the operator of the MS4 to which your system connects. If you do not know who that is, or you still cannot determine the receiving water, explain the situation in your Application. A schedule will be developed and that information can be submitted later as an update to the discharge point information.

36. Q: Where can I find maps of urbanized area boundaries?

A: Storm water MS4 documents may be downloaded from the Internet at www.michigan.gov/deqstormwater. In the middle column, click on **Municipal Program/MS4 Permit Guidance**, and then under **2000 Census Urbanized Area Maps**, select the link for your metropolitan area.

37. Q: Where do I get the boundaries for my watershed?

A: From the watershed leader or consultant for your watershed partners.

38. Q: Do the maps that are required to be submitted with the Application need to be digital (the MS4 area map and location of each discharge point map)?

A. No. Electronic maps are not required, but are preferred.

39. Q: Where can I get information on what is considered a surface water of the state?

A: Surface Waters of the State are defined in the following state rule and law:

Part 4 R 323.1044 (the same definition is also in the Part 8 Rules)

(u) "Surface waters of the state" means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

- (i) The Great Lakes and their connecting waters.
- (ii) All inland lakes.

- (iii) *Rivers.*
- (iv) *Streams.*
- (v) *Impoundments.*
- (vi) *Open drains.*
- (vii) *Wetlands.*
- (viii) *Other surface bodies of water within the confines of the state.*

(oo) *"Inland lake" means a surface water of the state that is an inland body of standing water situated in a topographic depression other than an artificial agricultural pond that is less than 1 acre, unless otherwise determined by the department. The department may designate a dammed river channel or an impoundment as an inland lake based on aquatic resources to be protected.*

(ii) *"Wetland" means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life.*

40. Q: Is there a required format for the unique identification codes?

A: *No. However, we prefer alpha numeric up to 10 characters.*